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ABSTRACT

The purpose of House Resolution (HR) 1253, an amendment to the State Justice Institute (SJI) Act of 1984, is to authorize the SJI to carry out research on state judicial decisions and develop judicial training curricula related to child custody litigation involving domestic violence, and to disseminate the results of this research. The report accompanying HR 1253 contains a statement of the purpose of the amendment, a list of the individuals providing testimony at congressional hearings on the measure, a discussion of its history and background, and a section-by-section analysis of the bill. The background section reports that each year 3 to 4 million women suffer physical, sexual, and mental attacks; between 3,000 and 4,000 women are murdered by a spouse or partner; and more than 3 million children watch the attacks and murders. The background section also explains the "battered women syndrome" and society's response to it: this is the central phenomenon surrounding HR 1253. The amendment has two main sections: Section 1 defines domestic violence; and section 2 authorizes the SJI to conduct not more than five projects aggregating not more than $600,000 to develop research and judicial training programs involving domestic violence, and to disseminate the results of this activity. Oversight findings, financial and budgetary statements, and a marked copy of the SJI Act of 1984 indicating changes made by HR 1253 are presented, and a copy of HR 1253 is attached. (AC)

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102D CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
102-992

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JUDICIAL TRAINING AND RESEARCH FOR CHILD CUSTODY LITIGATION

OCTOBER 3, 1992.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BROOKS, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 1253]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1253) to amend the State Justice Institute Act of 1984 to carry out research, and develop judicial training curricula, relating to child custody litigation, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

SUMMARY AND PURPOSE

The purpose of H.R. 1253 is to authorize the State Justice Institute (SJI) to carry out research on state judicial decisions and develop judicial training curricula relating to child custody litigation involving domestic violence, and to disseminate the results of this research. This is to be accomplished in not more than five projects and at an aggregate cost not to exceed $600,000.

HEARINGS

On August 6, 1992, the Subcommittee on Intellectual Property and Judicial Administration, to which the bill was referred, held a legislative hearing on H.R. 1253 and two related bills H.R. 1252, and H. Con. Res. 89. Testimony was received from Congresswoman Constance Morella, Representative, 8th Congressional District, Maryland; Honorable William Donald Schaefer, The Governor, State of Maryland; Ms. Roberta L. Francis, Director, New Jersey Division of Women; Ms. Melanie Griffin, Executive Director, New

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Jersey Commission on Sex Discrimination in the Statutes; Mrs. Barbara Price, Executive Director, New Jersey Coalition for Battered Women; Dr. Lenore Walker, Psychologist, Denver, Colorado; Judge Rosalyn B. Bell, Associate Judge, Maryland Court of Special Appeals; Ms. Lorriane Chase, YWCA Women's Center, Annapolis, Maryland; and Ms. Leslye Orloff, Director, Clinica Legal Latina at Ayuda Inc., Washington, DC.

COMMITTEE VOTE

On September 30, 1992, a reporting quorum being present, the Committee on the Judiciary ordered H.R. 1253 reported to the House by voice vote.

DISCUSSION

LEGISLATIVE HISTORY

H.R. 1253 was introduced by Congresswoman Constance Morella on March 5, 1991. On August 6, 1992, the Subcommittee on Intellectual Property and Judicial Administration held a hearing on the proposed legislation. On September 18, 1992, the Subcommittee marked up H.R. 1253, and reported it without amendment to the full Committee by voice vote, a quorum of members being present.

On September 30, 1992, H.R. 1253 was considered by the Committee. The measure was passed by voice vote without amendment, a quorum of members being present.

BACKGROUND

The testimony before the Committee indicates that each year 3 to 4 million women suffer physical, sexual, and mental attacks—and 3,000 to 4,000 women will be murdered—by a spouse or partner. While these attacks occur, more than 3 million children will watch the violence. Subsequent to these repeated attacks, some of these battered women are driven to retaliate. A few even kill their abusive partners. The Committee believes it is critical that judges and juries understand the plight of these battered women. Judges also need to consider the implications of histories of domestic violence before making custody decisions.

The central phenomenon surrounding H.R. 1253 is the "battered women syndrome" (BWS) and our society's response to it. This syndrome describes the psychological condition of a woman who is repeatedly attacked—physically, sexually, or mentally—by an intimate partner, and explains why her perceptions and reactions may be different from the average person. It also helps to explain why victims of domestic violence remain in these abusive relationships and why, under certain circumstances, these women have sometimes resorted to killing their battering partners.

H.R. 1253 is based on the premise that there is specialized knowledge of the nature and effect of domestic violence which is sufficiently established to have gained the general acceptance that is required for the admissibility of expert testimony. The testimony of the witnesses before the committee indicates that expert testimony on the battered woman syndrome is crucial to explain to the fact-finder why a defendant used deadly force against someone who, to

all outward appearances, did not appear to pose an imminent danger of death or serious bodily harm.

The Committee recognizes a need to carry out research on stated judicial decisions and develop judicial training curricula relating to child custody litigation involving domestic violence, and to disseminate the results of this research. It also believes that the State Justice Institute is the appropriate agency to accomplish this task.

Section-by-Section Analysis

Section 1.—This section defines the concept "domestic violence" for the program as any action between spouses, former spouses, or intimate partners which causes bodily injury; physical illness; involves rape, sexual assault or involuntary deviate sexual intercourse; physical intimidations; or false imprisonment if such individuals are biological parents or have legal custody of a minor child.

It also includes any physical or sexual abuse of such minor child.

Section 2.—This section authorizes the SJI to conduct not more than 5 projects aggregating not more than $600,000 to develop research on child custody litigation involving domestic violence, training programs for State courts in child custody litigation involving domestic violence and disseminate the results of this activity.

Section 3.—This is a technical amendment to the State Justice Institute Act of 1984.

Committee Oversight Findings

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the committee, based on oversight activities under clause (2)(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of the report.

Committee on Government Operations Oversight Findings

No findings or recommendations of the Committee on Government Operations were received as referred to in clause 2(l)(3)(D) of rule XI of the rules of the House of Representatives.

New Budget Authority and Tax Expenditures

Clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives is inapplicable because the proposed legislation does not provide new budget authority or increase tax expenditures.

Inflationary Impact Statement

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.R. 1253 will have no significant inflationary impact on prices or costs in the national economy.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill H.R. 1253, the following estimate and comparison prepared by the director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 1, 1992.

Hon. JACK BROOKS,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1253, a bill to amend the State Justice Institute Act of 1984 to carry out research, and develop judicial training curricula, relating to child custody litigation, as ordered reported by the House Committee on the Judiciary on September 30, 1992. CBO estimates that enactment of this legislation would result in additional outlays of $600,000 over the fiscal years 1994-1995, assuming the appropriation of the necessary sums.

Enactment of H.R. 1253 would not affect direct spending or receipts. Therefore, pay-as-you go procedures would not apply to the bill.

This bill would amend the State Justice Institute Act of 1984 to authorize the institute to make grants for research and curriculum development relating to child custody litigation. The bill would allow up to five projects at an aggregate cost of $600,000. Based on historical spending patterns of the State Justice Institute, CBO estimates that grants would be awarded within one year of enactment of H.R. 1253, and that outlays resulting from these grants would occur over the following two fiscal years. Hence, assuming appropriation of the full amount authorized, we estimate that enactment of this legislation would result in outlays by the federal government of $300,000 in each of fiscal years 1994 and 1995.

The State Justice Institute Act of 1984 stipulates that grant recipients must provide matching funds from public or private sources. Matching funds of $600,000 would be required for activities authorized by this bill, and state or local governments might be responsible for some of those costs.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Debra Goldberg and Robert Sunshine, who can be reached at 226-2860.

Sincerely,

ROBERT J. REISCHAUER, *Director.*

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 or rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

STATE JUSTICE INSTITUTE ACT OF 1984

* * * * * * *

TITLE II

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DEFINITIONS

SEC. 202. As used in this title, the term—

(1) * * *

* * * * * * *

(6) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; [and]

(7) "Supreme Court" means the highest appellate court within a State unless, for the purposes of this title, a constitutionally or legislatively established judicial council acts in place of that court[.]; *and*

(8) "domestic violence" means—

(A) any action that constitutes—

(i) attempting to cause or intentionally, knowingly, or recklessly causing bodily injury or physical illness;

(ii) rape, sexual assault, or causing involuntary deviate sexual intercourse;

(iii) placing by physical menace another in fear of imminent serious bodily injury; or

(iv) the infliction of false imprisonment;

if such action is taken by one of 2 spouses, former spouses, or sexual or intimate partners against the other spouse, former spouse, or partner and the 2 of whom share biological parenthood of, have adopted, are legal custodians of, or are stepparents of a minor child; or

(B) physically or sexually abusing such minor child if such abuse is inflicted by either of such spouses, former spouses, or partners.

ESTABLISHMENT OF INSTITUTE; DUTIES

SEC. 203. (a) * * *

* * * * * * *

(f) The Institute shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, guidelines, and instructions under this title, and it shall publish in the Federal Register all rules, regulations, guidelines, and instructions. The publication of a substantive rule shall not be made less than thirty days before the effective date of such rule, except as otherwise provided by the Institute for good cause found and published with the rule. [The publication of a substantive rule shall be made not less than 30 days before the effective date of

such rule, except as otherwise provided by the Institute for good cause found and published with the rule.]

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GRANTS AND CONTRACTS

SEC. 206. (a) The Institute is authorized to award grants and enter into cooperative agreements or contracts, in a manner consistent with subsection (b), in order to—

* * * * * * *

(c) Funds available pursuant to grants, cooperative agreements, or contracts awarded under this section may be used—

(1) * * *

* * * * * * *

(3) to conduct research on alternative means for using [judicial and] nonjudicial personnel in court decisionmaking activities, to implement demonstration programs to test innovative approaches, and to conduct evaluations of their effectiveness;

(4) to support studies of the appropriateness of efficacy of court organization and financing structures in particular States, and to enable States to implement plans for improved court organization and finance;

[(4)] *(5)* to support State court planning and budgeting staffs and to provide technical assistance in resource allocation and service forecasting techniques;

[(5)] *(6)* to support studies of the adequacy of court management systems in State and local courts and to implement and evaluate innovative responses to problems of record management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

[(6)] *(7)* to collect and compile statistical data and other information on the work of the courts and on the work of other agencies which relate to and effect the work of courts;

[(7)] *(8)* to conduct studies of the causes of trial and appellate court delay in resolving cases, and to establish and evaluate experimental programs for reducing case processing time;

[(8)] *(9)* to develop and test methods for measuring the performance of judges and courts and to conduct experiments in the use of such measures to improve the functioning of such judges and courts;

[(9)] *(10)* to support studies of court rules and procedures, discovery devices, and evidentiary standards, to identify problems with the operation of such rules, procedures, devices, and standards, to devise alternative approaches to better reconcile the requirements of due process with the need for swift and certain justice, and to test the utility of those alternative approaches;

[(10)] *(11)* to support studies of the outcomes of cases in selected subject matter areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity, to pro-

pose alternative approaches to the resolving of cases in problem areas, and to test and evaluate those alternatives;

[(11)] *(12)* to support programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

[(12)] *(13)* to test and evaluate experimental approaches to providing increased citizen access to justice, including processes which reduce the cost of litigating common grievances and alternative techniques and mechanisms for resolving disputes between citizens; [and]

(14) conduct not more than 5 projects at an aggregate cost of not to exceed $600,000—

(A) to investigate, and carry out research regarding State judicial decisions relating to child custody litigation involving domestic violence;

(B) to develop training curricula to assist State courts to develop an understanding of, and appropriate responses to, child custody litigation involving domestic violence; and

(C) to disseminate the results of the investigation and research carried out under subparagraph (A), and the curricula developed under subparagraph (B), to State courts; and

[(13)] *(15)* to carry out such other programs, consistent with the purposes of this title, as may be deemed appropriate by the Institute.

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